

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TR PETROLEUM, LLC,

Plaintiff,

-against-

SUNOCO, INC. (R&M),

Defendant.

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LINDSAY, Magistrate Judge:

**REPORT AND
RECOMMENDATION**
CV 07-475 (FB)(ARL)

Before the court, on referral from District Judge Frederic Block, is the defendant's motion for the entry of a preliminary injunction enjoining the plaintiff's use and display of Sunoco tradenames, trademarks and trade dress at the service station located at 160 New York and Madison Avenue, Huntington ,New York 11742 and ordering plaintiff to immediately vacate such premises. For the reasons that follow, it is reported and recommended that the defendants' motion be granted as unopposed.

During the February 19, 2008 teleconference with the parties, the undersigned set a briefing schedule for the defendant's motion and scheduled the hearing for March 17, 2008. The schedule required the plaintiff to file its opposition papers by February 29, 2008. On March 5, 2008, having not received any papers from the plaintiff, the court issued a further order permitting the plaintiff to submit opposition by March 10, 2008 given the fact that during the February 19th teleconference, counsel of record for the plaintiff had reported that he had just been discharged and that the plaintiff had retained new counsel to represent him in this matter. To date, new counsel has not filed a notice of appearance nor has plaintiff's counsel of record been relieved. The March 5th order made clear that "the failure to submit opposition papers by March

10, 2008 will lead to a recommendation to District Judge Block that the injunction be granted as unopposed.” Notwithstanding that warning, the plaintiff has not opposed the defendant’s motion for a preliminary injunction despite being served with the March 5th order. See Certificate of Service, dated March 6, 2008, Dkt. Entry 36. Accordingly, the undersigned recommends that the defendant’s motion for a preliminary injunction be granted as unopposed. United States v. Webb, CV 06-5317(SLT), 2007 WL 2903902 (E.D.N.Y. Sept. 28, 2007).

OBJECTIONS

A copy of this Report and Recommendation is being served by the Court on all parties. Any objections to this Report and Recommendation must be electronically filed with the Clerk of the Court within 10 days of service. Failure to file objections within this period waives the right to appeal the District Court’s Order. See 28 U.S.C. §636 (b) (1); Fed. R. Civ. P. 72; Beverly v. Walker, 118 F.3d 900, 902 (2d Cir. 1997); Savoie v. Merchants Bank, 84 F.3d 52, 60 (2d Cir. 1996).

Dated: Central Islip, New York
March 11, 2008

SO ORDERED:

_____/s/_____
ARLENE R. LINDSAY
United States Magistrate Judge